OPERATOR HOLDS UP ARBITRATION.

W. P. De Armitt's Refusal to Submit May Result in Action by McKinley.

Senator Hanna's Manager Declares That the Journal Has Found the Sensible Way to End the Trouble.

Other Coal Producers Intimate That a Commission Appointed by the President Might Be Successful—State Officials Will Confer Again To-day.

"The Journal has devised the sensible way to settle the dispute. My company is willing to place its interests in the hands of any fair board that may be selected."—Operator Thomas Young, representing M. A. Hanna & Co. before the Arbitration Commissioners at Pittsburg yesterday.

Pittsburg, July 12.—Arbitration, as the commissioners from Ohio, Indiana and Illinois planned it, has been brought to a temporary halt, at least, by the refusal of President W. P. DeArmitt, of the New York & Cleveland Gas Coal Company, whose men are still at work, to agree to arbitration.

On the other hand, Operator Thomas Young, who has charge of the M. A. Hanna & Co. mines, declares that the Journal has found the sensible way to end the strike, and that his company will help it along. Moreover, some of the operators who are not favorably disposed to the arbitrators, have intimated that if President McKinley should appoint a board that body might be able to do something to end the struggle.

Labor Commissioners and official arbitrators of the several States affected are mobilizing in this city. The Ohio board is composed of S. N. Owen, chairman, of Columbus, who was formerly Chief Justice of the Supreme Court of Ohio; ex-Attorney-Gene[illegible] John Little, of Xenia, and Joseph [illegible] of Columbus, formerly president [illegible]amated Association.

Pittsburg the Centre.

[illegible]iana Labor Commissioners here [illegible] McCormack, ex-president of the [illegible]ypographical Union, and B. F. [illegible]dt, of Indianapolis; James M. Clark, industrial Statistician of Pennsylvania, arrived from Harrisburg this morning. The same officials of the State of West Virginia are expected to arrive here to-morrow. Two Illinois Commissioners of Labor are on their way here, and will arrive in the morning.

The members of this body, in their desire to adjust the points at issue, came to Pittsburg because they knew it to be the centre of this strike, and to be the basis upon which any temporary or permanent peace must be built. They realize that upon the rate established in the Pittsburg field depends the rates of all other competitive fields.

They came here in no official capacity. No invitation has been extended them by either miners or operators. There was no formal organization, or even definiteness of plan. They simply gathered here at the suggestion of one of their number to attempt the utilization of the lofty and humane principle of arbitration that the Journal has advocated as the wisest way to avert a great industrial warfare. Joseph Bishop, secretary of the Ohio State Board of Arbitration, said to-day:

"We are not here officially; we cannot be, and any action that we take cannot bear the official stamp. We are here in the interests of our country's welfare. This strike has extended far beyond the expectations of the operators and the miners' officials. It is a serious matter. If the contest is permitted to proceed indefinitely the most serious consequences may follow."

Hanna's Aid Promised.

The peace advocates met in the Seventh Avenue Hotel this morning. There was not the slightest aspect of formality when they gathered to talk over the situation. There was no chairman and no secretary. Prominent operators had received notice that the Board was in town and would be pleased to have a talk over the situation with all those interested and who had information or suggestions to give.

Operator Thomas Young, representing M. A. Hanna & Co., was one of the first producers to meet the committee. He said to the members:

"The Journal has devised the sensible way to settle the dispute and my company is willing to place its interests in the hands of any fair board that may be selected."

Later in the day Operator J. B. Zerbe, of the Ohio & Pennsylvania Company, talked over the situation with the committee. Much valuable information was gathered from both gentlemen. Just before noon Mr. James Creelman, the Journal's special commissioner, was called to the informal conference, and the board listened with much interest to the clear exposition of the many important facts he had gathered during his investigation. The commissioners will meet again to-morrow morning.

Miners Are Determined.

The miners say De Armitt's differential is the primary cause of this strike. If it cannot be done away with the battle must go on. De Armitt accepts the responsibility for his insistence upon his price advantage and will maintain it.

The refusal of President De Armitt to participate in the plan to arbitrate the present strike means that a special fight will have to be made to get his men out. If they are permitted to remain at work there can be no permanency given the sixty-nine cent rate, even though this strike may be settled upon that basis. Even though all the operators grant the rate, if De Armitt is permitted to retain his ten cents per ton advantage, the warfare will be renewed again as soon as the operators commence to get a little coal ahead. Therefore the New York and Cleveland mines, from the strikers' point of view, must be stopped.

WHY DE ARMITT REFUSES.

He Tells James Creelman That He Cannot Compete on Even Terms with Dishonest Operators.

By James Creelman.

Pittsburg, July 12.—In spite of the fact that three great States, Ohio, Indiana and Illinois, have sent their official arbitrators to Pittsburg in the hope of discovering some means by which the questions at issue might be submitted to arbitration; in spite of the fact that the mine workers have agreed to arbitrate their case, and that President McKinley stands ready to consider the question of appointing arbitrators when the mine owners, by their consent, give him the right to do so, the whole movement toward peace has been brought to a sudden halt by the refusal of William T. De Armitt, whose mines include the Carnegie and Frick coal interests, to consent to any sort of arbitration whatever.

The arbitrators of the three States held a long session this morning and telegraphed appeals for assistance in their work of peace to President McKinley and Senator Quay. Several of the large coal operators of the Pittsburg district visited the peacemakers, and while they were not enthusiastic in their desire for arbitration, they expressed their willingness to accept that means of a settlement on condition that F. L. Robbins and Mr. De Armitt, the greatest operators in the Pittsburg district, would also agree. Among those who were most earnest in their efforts to aid the commissioners was Thomas Young, who owns the controlling interest of the mines in which Mark Hanna is interested. Mr. Young, in my presence, assured the commissioners that he was ready at any time to submit the issues to arbitration and that he had the active sympathy and support of Senator Hanna.

Robbins's Consent Secured.

The Journal yesterday, through its special commissioner, secured Mr. Robbins's consent to the proposed arbitration, and when that fact was made known to the arbitrators they visited Mr. Robbins and obtained from him a full statement of his position and of his willingness, however reluctantly, to aid in the effort to arbitrate.

It was agreed by all the operators, and I have personally visited many of them, that De Armitt's consent or refusal to arbitrate would go far towards settling the question. After a conference with the Commissioners of the three States, I visited Mr. De Armitt to-day and spent two hours in a discussion of the difficulties in the way of arbitration. Several of the larger operators were present during portions of the conversation.

I called the attention of Mr. De Armitt to the fact that the pay of miners in all the other States affected by the strike depended upon the rate of wages in the Pittsburg district, and that it was in his power to say whether or not there should be arbitration. I urged upon him the frightful possibilities of distress and disorder which may follow a continuance of the struggle.

No Shirking for Him.

Mr. De Armitt replied that he fully understood the responsibility of his position and did not seek to evade it. He said so far as he was concerned his miners had signed a contract to work for 10 cents a ton less than the prevailing rate in the Pittsburg district. This differential in his favor was necessary because he had to compete with cerators who resorted to fraud in weighing their coal, who cheated in the screening process, who gained an advantage by maintaining company stores at which the men were compelled to deal, and who did not pay for their labor in cash.

There was no dispute as to prices between himself and his workmen, and, therefore, there was nothing to arbitrate. He declared that his men would stay in the mines and work unless they were driven away by clubs, and that as soon as the clubs were removed the men would go back to their posts. He said that he would be glad to see and talk with the Commissioners from the various States, but that he would say to them what he said to me, that he would never consent to arbitration, because there was nothing in this dispute which could be settled in that way.

De Armitt declared that no board of arbitration could compel his competitors to be honest and that the methods which some of them employ in weighing, screening and paying were such as to make all question of uniform price for labor impossible. When De Armitt said this to me several of the other operators present heartily indorsed his statement.

Nothing to Arbitrate.

I asked Mr. De Armitt whether he did not recognize a moral responsibility on the part of his company toward the hundreds of thousands of miners affected by the strike and toward the immense business interests of the country which might be gradually involved in the conflict.

He said that he did, but that to surrender the advantage which he had by reason of his contracts with his workmen would be to plunge in bankruptcy the interests for which he was the trustee. To talk of arbitration was a waste of time, he said. He was willing to say that in 90 out of 100 business disputes the man who refused his consent to arbitration was either a rascal or a fool. But this was one case out of a hundred. He would never consent to arbitration no matter what the consequences might be because there was nothing in the matter that could be settled by arbitration.

He acknowledged the good motives which led Ohio, Indiana and Illinois to send their commissioners to Pittsburg, and he recognized the exceptional character which a commission appointed by President McKinley would have; but neither Bishop Potter nor Seth Low nor any other man or body of men could put morals into the coal operators who compelled him to protect himself by special contracts with his men. He was satisfied with these contracts, and so were his miners. His en got steady employment and made a high average of wages.

Result of a Conspiracy.

De Armitt said that he believed that the strike was the result of a conspiracy, although he did not care to name the conspirators. He knew that one man tried to borrow $100,000 for the purpose of buying coal on barges in the river, and that he intimated the probability of a strike which would give him a handsome profit on his investment. That was only one case.

De Armitt said that the present efforts to put him in the position of obstructing an effort to arbitrate was largely a game of politics, but that he did not propose to be influenced by it. He conducted his business honestly; he weighed and screened his coal fairly; he had no usurious company stores; he paid in cash; he treated his men decently, and he did not crowd his mines so that each man did not have a chance to make a good average.

The troubles in the coal mining business were simply the laws of God working out in human economics. It was a question of supply and demand, and close competition. An honest operator could not compete with a dishonest operator unless he had something in his favor.

As for the claim of the Ohio operators that they must have a differential of nine cents in their favor judged by the price fixed in the Pittsburg district, that was an obsolete contention. There was a time when the Pittsburg operators yielded that advantage to the Ohio operators in order to allow them to get a fair share of the coal trade on the lakes. It was never claimed by the Ohio men that they needed this differential to protect them in their local trade.

Competitors No Longer.

But now the Ohio operators had practically ceased to be competitors on the lakes, and the reason for such a differential had ceased to exist. The argument of the Ohio and other outside operators that they were compelled to grade their miners' pay according to Pittsburg's miners, would not stand investigation now.

I asked DeArmitt whether he could suggest any basis for a settlement of the present difficulties, and he said that he had once tried to get all of the operators in the district to form an association, each operator depositing bonds of amounts commensurate with the output of his mines and contributing a small tax on the output to a central fund, the combined operators to have the power of inspecting the books and supervising the weighing and screening and loading at the mines, so that if any operator should be caught resorting to dishonest methods he might be punished by a heavy forfeiture of money. Not more than 67 per cent of the operators would agree to this arrangement.

I asked DeArmitt whether, if such an agreement were to be brought about now between all the operators in the Pittsburg district, he would consent to an arbitration of the wage question. He answered that arbitration would not be necessary, as the operators and their employes could come to an agreement at once. But the difficulty was that there would have to be differentials between hand-worked mines and machine-worked mines, and the whole system would have to be extended to the coal districts in other States.

Will Meet the Commissioners.

De Armitt has consented to meet the Commissioners from the three States to-morrow morning, but his decision will be just what I have written. He will not arbitrate. His determination is final and irrevocable.

The Commissioners to-day appealed to Henry C. Frick, who defended Homestead against the strike which caused so much bloodshed and distress, to use his influence with Mr. De Armitt. Frick, as well as Carnegie, is heavily interested in the De Armitt mines. He replied that he would not interfere.

Those who are working for arbitration have considered the feasibility of procuring an agreement by arbitration with all the operators except De Armitt, with the idea that the De Armitt miners would strike when they found that the men in the Ohio mines were getting higher pay. But neither the operators nor the fighting miners will consider such a proposition.

Journal's Efforts Commended.

The Leaders Declare That Its Energetic Work for Arbitration Has Been of Great Benefit to the Entire Nation.

TRIBUTE OF STATE ARBITRATORS.

Pittsburg, July 12.

Editor New York Journal:

The course of your paper in its courageous and enterprising advocacy of arbitration, as a means of settling the present coal strike, deserves and ought to receive the gratitude of all friends of peace.

You have a right to this expression of our sincere acknowledgment of your efforts in the cause to which you have lent the great power of the Journal.

ELWYN N. OWNEN,
JOHN LITTLE,
JOSEPH BISHOP,
Members Ohio State Board of Arbitration.
B. FRANK SCHMID,
L. P. M'CORMACK,
Labor Commissioners of Indiana.
DANIEL J. KEEFE,
Chairman State Board of Arbitration of Illinois.

Pittsburg, July 12.—The following statements show how the labor leaders now in this city regard the Journal's efforts to secure the settlement of the great strike by arbitration:

"A Great Work," Declares Garland.

The Journal accomplished a great work in its endeavor to have the national strike of miners settled by the common sense and just method of arbitration. It placed the responsibility for a prolongation of the strike exactly where it belongs.

In that way it very materially assists those at issue to arrive at a settlement, even though one side obstinately refuses to confer, by revealing to the public eye those who are responsible for this conflict. It focuses public opinion and public censure upon those who reject a fair means of adjudicating, and adds these two potent influences to the many inferior forces at work to terminate the great strike. The Journal is deserving of the sincere thanks of the public.

M. M. GARLAND,
President Amalgamated Association Iron and Steel Workers of the United States.

"Deserves Good Citizens' Thanks."

The Journal deserves the sincerest thanks, not only of trade unionists, but of all good citizens, in taking the initiative in an effort to arbitrate the great strike of miners before a costly and perhaps fatal industrial warfare reaches its climax.

That paper's successful enlistment of the central figures of our public and professional life on behalf of arbitration and its search into causes cannot but redound to the everlasting benefit of justice. It is helping to force an adjustment in the near future. I consider this one of the Journal's greatest enterprises.

M. P. CARRICK,
National President Brotherhood of Painters and Decorators.

"A Great Benefit to the Nation."

When public opinion can be thrown upon the side of justice in any great conflict a great benefit to the nation accrues. This is what the Journal has done in the great strike of miners. It drew every possible influence in public and private life to assist in the adjudication of the strike, from the President of the United States to the humble, involved and struggling miner.

The condemnation of the whole people must be upon the men who will not arbitrate, and must operate to hasten a termination of this grave industrial strife.

LLEWELLYN R. THOMAS,
National President Pattern Makers' League of North America.

"Country Is Benefited," Says Dolan.

The whole country is benefited by the Journal's plan to have the miners' strike arbitrated. The Journal has shown that the mine owners alone oppose that humane and business-like system of adjudicating one of the gravest labor disputes this country has ever known.

It has pointed out the avenue along which public opinion may now best exert itself to force a termination of this strike.

PATRICK DOLAN,
Member National Executive Board United Mine Workers of America.

"Greatest of All Its Enterprises."

The Journal is a great paper, and has projected and successfully followed some great enterprises, but among the greatest of all its enterprises is its plan to have the miners' strike arbitrated.

It has placed the entire moral responsibility of prolonging the strike upon the operators. Now that the Journal has pointed this out, I cannot see that public sentiment can much longer permit a continuation of this strife.

JAMES HUGHES,
National Secretary Federated Metal Trades.

"Wrought a Great Public Good."

I recall that the national labor leaders at their meeting in Pittsburg last week reiterated the declaration of the miners that "we never have and do not now oppose arbitration."

The Journal has shown who does oppose arbitration. It has placed the blame for a continuance of this strike, and it has been well done. It has wrought a great public good.

M. J. COUNAHAN,
National Secretary Plumbers and Steamfitters of North America.

SIGNS OF A COAL FAMINE.

Total Supply Now on Hand May Not Last the Consumers Two Weeks Longer.

Pittsburg, July 12.—There is a strong indication of a coal famine confronting the country within the next ten days. It is claimed by conservative operators that the marketable supply at present, which is placed at 10,000,000 bushels, would be only able to meet the demands of the market for about a month under ordinary conditions. With the scarcity of coal already prevailing at the lake ports, it is claimed the supply will not last over two weeks at the longest.

In anticipation of such a condition, the coal operators are not very anxious to fill orders and are holding out for the advance in price that is expected to result. The only source of supply is from the river mines, as the railroads are confiscating for their own use all the coal ready for shipment along their lines.

This order was issued last week, and, with the exception of permitting the railroad operators filling orders for coaling vessels at the lake ports, no coal is allowed to leave the district. With the supply limited to the Monongahela district, the prospects of famine is declared to be a certainty. There has been a marked increase in the price of coal within the past few days, and it is claimed that a ten cent rate per bushel in boatload lots will be reached within the present week.

Shutting Down at Columbus.

Columbus, July 12.—It is estimated that 450,000 tons of soft coal are consumed in this city in a year, or about 1,300 tons per day. A canvass of the local offices develops the startling fact that there is scarcely 8,000 tons on hand at the present time, and many of the dealers regard the situation as extremely critical. Others declare there need be no fear of a coal famine and base their claims on the prospects of supplying the trade with West Virginia coal.

Three manufacturing establishments have already shut down on account of inability to secure coal. The city water works plant has two weeks' supply of coal, and the electric light company has no fuel on hand, but secures a supply daily from coal yards.

During the big strike in 1894, President McBride issued a special dispensation permitting a few miners to work in certain mines in order to keep up the supply for public institutions, electric lights and water works plants in various cities. When asked whether he would issue such an order during the present strike, President Ratchford said he would wait until the question presented itself before he would decide.

Cleveland Gets No Coal.

Cleveland, July 12.—It requires a daily consumption of 52,000 tons of soft coal to keep the various mills, factories, furnaces and shipping interests running in this city. From Saturday until Monday not a pound of coal entered the city. On Friday a little came in, but the visible supply will be exhausted before the week is out.

A canvass of the mills and factories shows that a majority of them have a sufficient supply on hand to operate for five days. If the roads to the base of supplies in West Virginia can be kept open sufficient coal will be received to keep them operating a longer time. There is no doubt that a great effort is being made to get the Ohio railways to refuse to handle West Virginia coal, which would effectually tie up Cleveland.

Chief P. M. Arthur, of the Brotherhood of Locomotive Engineers, says he sees no reason why the trainmen should refuse to handle West Virginia coal, and that, so far as he knows, they do not intend to refuse. A shutting off of the West Virginia field for one week would effectually cripple every industry in Cleveland, including the lighting plant and the street railways. The Water Works could operate for one month, having a forty days' supply on hand.

Chicago's Surplus Drawn On.

Chicago, July 12.—This city is now consuming just four times as much soft coal every day as is coming into town. The daily receipts are barely 5,000 tons, while the daily consumption is 20,000 tons. The present supply in Chicago is about 200,000 tons of coft coal and 800,000 tons of hard coal. Manufacturers can and will use the hard coal in an emergency, but not unless forced to do so, as it is twice as expensive.

At a shrinkage of 15,000 tons per day Chicago's supply of soft coal will be exhausted in about two weeks. The hard coal however, will carry the city's industries over nearly two months.

The city water works are protected for two months ahead now, and should the miners' strike extend beyond that time it is proposed that enough coal will be confiscated as it comes into the city to keep the water supply out of danger. Large quantities of West Virginia coal are now on the way to Chicago, and some is coming in from the Illinois mines. In view of the confiscation by the railroads it is altogether likely that the mills will be closed inside a fortnight if the miners remain idle.

STRIKING IN ILLINOIS.

The Men Are Quitting Work in the Danville and Springfield Districts with but Rare Exceptions.

Danville, Ill., July 12.—The Danville district miners voted for a sympathetic strike to-day. The miners promise that all their local contracts will be filled. One operator offered them $1 per ton for the next thirty days, an increase of over 200 per cent, but his proposition was not accepted. No trouble is anticipated here.

Springfield, Ill., July 12.—Pursuant to the decision of yesterday's mass meeting, the miners in all mines in the Springfield district struck to-day, except the Clear Lake co-operative and Spaulding shafts.

LEXOW'S TRUST LAW IS VOID.

HON ALDEN CHESTER

Justice Chester, of the Supreme Court, Says It Is Unconstitutional.

As the Journal Predicted, It Is Inoperative Against Trusts.

Without Disputing the Authorities, He Finds the Recent Enactment Defective.

What the Journal Predicted.

Albany, April 15.—The Anti-Trust bills, which, in a measure, would have restricted the operation of the trusts in this State, have been made worthless, and since the fangs have been pulled the Senators of the majority are willing to enact the bills into law. * * * Under the amended bills of this year the bill to restrain monopolies, which Assemblyman Robbins put through, is so changed that it is worthless.—From the New York Journal, April 16, 1897.

Albany, N. Y., July 12.—Trusts are safe for two years from persecution by the State on civil process. Justice Alden Chester, of the Supreme Court, has dismissed Attorney-General Hancock's proceedings against the Coal Trust, declaring that Senator Lexow's vaunted anti-trust laws are unconstitutional, and the proceedings faulty besides.

This result is not surprising to those who watched the dilly-daily of the Legislature with the anti-trust bills. Trust lawyers were listened to with too close an attention by the Senate Judiciary Committee for the good of the bills to wipe out trusts. So the Journal's Albany dispatches declared at the time. Nevertheless the bills were amended in accordance with trust suggestions, and the result is worthless laws, if Judge Chester's decision stands the test of the higher courts to which the Attorney-General says he will appeal, hoping for final success.

Nothing to Be Done for Months.

A close survey of the times of the higher courts' sittings and their methods brings one to the conclusion that a final decision will not be rendered until next Spring, unless the lawyers hurry. The Appellate Division of the Supreme Court does not meet until September. A decision from that court might be expected in two months. Another appeal taken, and the Court of Appeals might reach the cause in the early Spring. The lateness of the session would prevent the Legislature of 1898 from remedying the mistakes of this year's Legislature, and anti-trust legislation would go over till 1899—perhaps to a Democratic body.

The opinion of Justice Chester, a careful, learned jurist of undoubted integrity, occasioned some surprise, owing to the fact that he overturns his own order for the examination of Presidents Sloan, Rodgers, Maxwell, R. M. Olyphant and Thomas C. Fowler, of the coalers. Lawyers explain that ex-parte orders such as this are often set aside after the opponents are heard.

One Little Ray of Hope.

One ray of hope against trusts appears in the opinion. Judge Chester strongly intimates that laws declaring the illegality of combinations restrictive of trade are constitutional and upheld by many decisions. In the matter of the principle it thus appears Lexow's laws are maintained, but Judge Chester, continuing, says that the attempt to give courts the power to order examinations to obtain testimony against trusts before action brought confers extra powers, non-judicial and not warranted by the constitution. The court says also that the law's provisions that any evidence in criminal proceedings is insufficient. In effect, the Court says that some evidence obtained shall not be used against a witness might be obtained which would be a missing link in a prosecution's chain of proof, thereby violating the constitutional right that no one shall be compelled to testify against himself. Finally the court decides that the Attorney-General's proceedings does not conform to legal practice according to the Code of Procedure.

Investigation Worthless.

The decision if sustained makes worthless, so far as legal results go, Senator Lexow's trust investigation of last Winter. That investigation cost several thousand dollars. Likewise it revives the rumors current last Winter that Senator Platt was making a "bluff" against trusts for campaign purposes. Senator Cantor asserted on the floor of the Senate that the bills as emasculated and patched by the Republican majority were worthless. The tinkered bills were passed, however, and a few days after Governor Black approved the measure Attorney General Hancock began his proceedings. To his thirty pages of briefs the Coal Trust lawyers opposed 200 pages of the law as they saw it. Now the decision puts the people of the State at the mercy of the trusts for two oppressive years because of the incompetency of the Republican Legislature to draft anti-trust laws.

Judge Chesterman said in part:

Anti-Trust Legislation Good.

Upon the argument and in the extended briefs submitted by counsel in support of this motion, very able and learned attacks have been made upon the constitutionality of the substantive provisions contained in the first and second sections of the act—condemning trusts in general and their operations. In some of the more prominent of the recent cases, where acts to prevent monopolies in commodities of common use or to prohibit restriction of trade and commerce, have been called in question, the legislation brought in question was sustained by the courts and the contracts condemned.

It seems to me very clear, in the first place, that there is an attempt in this act to impose upon the Justice of the Supreme Court non-judicial functions which cannot be sustained.

It would seem clear from general principles that the Legislature cannot impose upon the Court or the Justices thereof functions of a non-judicial character.

This principle appears to have frequently been applied when the legislative department has sought to impose upon the judiciary non-judicial actions, such as taking testimony for the use or information of administrative officers. * * * The Attorney-General is one of the administrative officers of the State, having an important relation to the executive department of the Government.

It thus appears clearly that the examination authorized by the act is merely to aid the Attorney-General in determining the question as to whether or not he should commence an action. This is clearly an administrative function, and one which simply aids the Attorney-General to determine a question relating wholly to the proper discharge by him of a public duty.

Witnesses Not Protected.

In the next place, I think the procedure sought to be authorized in this statute presents an instance of a serious infraction of the constitutional rights and privileges of a witness charged with a crime.

The act provides that no person shall be excused from answering any question that may be put to him on the ground that it may tend to convict him of a violation of the provisions of the act. (Section 7.) A violation of the provisions of the act is expressly made by Section 2 a misdemeanor, and on conviction thereof the person is punishable by a fine or imprisonment, or by both such fine and imprisonment.

An attempt has apparently been made in the statute in question to give immunity to the witnesses. In section 7 it is provided that "the testimony given by the witness in a proceeding or examination under this act shall not be given in evidence against him in any criminal action or proceeding; nor shall any criminal action or proceeding be brought against such witness on account of the testimony so given by him."

This language comes far short, in my opinion, from giving absolute immunity to the witness from prosecution.

It has frequently been held in this State under those provisions of the Code of Civil Proceedure authorizing the examination of a party or witness before trial, that where it clearly appears that the only material evidence sought by the examination will tend to show that the witness is guilty of a crime the order to examine should be vacated upon the motion of the witness without waiting for him to plead his privilege. If a corporation is to be a defendant its officers are excused from testifying for the same reason.

The further objection is made that this order cannot be sustained because of the insufficiency of the petition under which the order was granted, even though the power to grant the order was properly devolved by the Legislature upon Justices.

An examination of the petition shows that there is an entire failure to state any fact required by the provisions of the Code, except the statements made upon information and belief, without stating any source of information or any grounds for the belief. * * * It will be observed that these statements do not amount to such proof of any fact as would be admissible in a court of justice.

MR OLCOTT'S SIDE OF IT.

District-Attorney Thinks Lawyer Howe's Question of Jurisdiction Does Not Apply to Mrs. Nack.

"I think that section No. 134 of the Code of Criminal Procedure covers the case of Mrs. Nack and Martin Thorn," said District-Attorney Olcott, when asked what he thought about the point of jurisdiction raised yesterday by Mr. Howe. Killing was one part of the crime these persons are charged with. Intent and deliberation were other parts, and these were made in this county.

"I think we shall be able to prove sufficient to give us jurisdiction under the law. I have no fear that in the event of a judgment against either of these defendants it will be reversed by the Court of Appeals on the ground that this county had no jurisdiction. If I had such fear I should not try the case. If that fear should at any time arise I should turn the cases over to the Queens County authorities."

"In the event of a judgment of conviction being rendered against my client," said Lawyer Howe, "I have no doubt that the Court of Appeals would reverse the conviction. At present there is nothing to go to the Court of Appeals on."

SHOT IN THE CARS.

A Conductor Killed as He Sat in a Passenger Coach, and His Slayer Jumped from the Train.

Youngstown, Ohio, July 12.—Thomas Edmunds, a brakeman on a Pennsylvania Railway gravel train, was arrested here yesterday on the charge of having murdered Conductor John Haley.

Haley was on his way from a place in Pennsylvania, where he had been at work, to his home in Niles, this State, last night, when he was killed. As he sat in the rear seat of a passenger coach somebody entered the rear door and shot him through the head. The murderer then jumped from the train and escaped.

Later it was learned that Haley had discharged Edmunds, who had been in his crew, and that the latter had come to this city in an intoxicated condition. Edmunds has made no statement, but an empty cartridge shell was found in one of his pockets when he was arrested, and the police feel confident of being able to fix the crime upon him.

SHE SHINES MEN'S SHOES.

Daisy Hurdle Takes Unusual Measures to Introduce a Certain Brand of Blacking.

Barrington, Ill., July 12.—Miss Daisy Hurdle has created a sensation by taking the general agency of an Eastern shoe polishing house. In order to introduce the goods she travels from town to town with a polishing outfit and shines the footwear of society people on the streets. The spectacle of a handsome young lady in fashionable attire presiding over the destinies of a boot blacking establishment is a novelty hereabouts.

Had Twenty-six Stolen Letters.

Philadelphia, July 12.—George Kelly, a letter carrier, was arrested to-day for the wholesale theft of letters. When taken into custody Kelly had twenty-six letters in his possession which had just been taken from the mails. The letters contained cash, checks and money orders.